

## CALIFORNIA ENERGY COMMISSION

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www.energy.ca.gov



April 7, 2005

<b>DOCKET</b>
<b>04-IEP-1D</b>
<b>DATE APR 07 2005</b>
<b>REC'D APR 07 2005</b>

Carrie A. Downey  
Horton, Knox, Carter & Foote  
Law Building-895 Broadway  
El Centro, CA 92243

Re: Imperial Irrigation District - Application for Designation of Confidentiality  
Electricity Supply Forecast Data, Docket No. 04-IEP-01

Dear Ms. Downey:

On March 8, 2005, Imperial Irrigation District (IID) filed Electricity Supply Forecast Forms S-1, S-2, S-3 for use in the Energy Commission's 2005 Energy Report proceeding. IID, as part of that filing, is seeking a designation of confidentiality for the above-referenced forms for at least two years.

IID's application for confidentiality (application) can be summarized as follows:

- Form S-1: Capacity Resource Accounting Table. IID requests that this form be kept confidential for at least two years.
- Form S-2: Energy Balance Accounting Table. IID requests that this form be kept confidential for at least two years.
- Form S-3: Generic Renewable Capacity and Energy Locations. IID requests that this form be kept confidential for at least two years.

IID states that the information in these forms, if disclosed, would "decrease the competitive nature of the bids that IID receives when it puts out a request for proposal to purchase energy in the future," and would allow "potential bidders ... to achieve a competitive advantage in predicting IID's needs."

The California Public Records Act allows for non-disclosure of trade secrets (Gov. Code, § 6254(k), Evid. Code, § 1060). The California courts have traditionally used the following definition of trade secret:

"A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it..." (*Uribe v. Howie* (1971) 19 Cal.App.3d 194, 207-208, 96 Cal. Rptr. 493, 500-501, from the Restatement of Torts, vol. 4, sec. 757, comment b, p. 5.)

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IID's application makes a reasonable argument under the Energy Commission's regulations for the Executive Director to classify the information in Forms S-1, S-2, and S-3 as confidential, since it could provide a competitive advantage if made public. (Gov. Code, § 6254 (k); Cal. Code Regs., tit. 20, § 2505.) IID's application for confidentiality is therefore granted for the period of two years through January 2007. If you have any questions regarding this decision, please contact Thomas Glaviano, Staff Counsel, at (916) 651-8893.

Sincerely,

A handwritten signature in black ink, appearing to read "S.W. Matthews", with a long horizontal flourish extending to the right.

SCOTT W. MATTHEWS  
Acting Executive Director

cc: Docket Unit